United States District Court
For the Northern District of California

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3   ***E-FILED***
                                                                           April 7, 2006
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7   UNITED STATES DISTRICT COURT
8   NORTHERN DISTRICT OF CALIFORNIA
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10   PICTURE IT SOLD, INC.,   No. C 05-02598 RMW (RS)
11   Plaintiff,
12   v.   **SETTLEMENT CONFERENCE ORDER**
13   ISOLD IT, LLC,
14
              Defendant.
15   _____/
16   TO ALL PARTIES AND COUNSEL OF RECORD:
17   The above matter was referred to Magistrate Judge Richard Seeborg for Settlement
18   Conference. You are hereby notified that the conference is scheduled for **May 19, 2006 at 9:30**
19   **a.m.** in Courtroom 4, Fifth Floor, United States Courthouse, 280 S. First Street, San Jose, California.
20   **Lead trial counsel** shall appear at the Settlement Conference with the parties and with the
21   person or persons having **full authority** to negotiate and to settle the case. In all cases in which a
22   party is insured, the carrier's claims representative and attorney, if any, with **full authority** to
23   negotiate up to the limits of coverage shall also attend the Settlement Conference.
24   Personal attendance by counsel will not be excused under any circumstances and personal
25   attendance by a party will rarely be excused. Permission for a party to attend by telephone may be
26   granted upon written request made at least ten (10) calendar days in advance of the conference, **if** the
27   party lives and works outside of the Northern District of California **and** attendance would constitute
28   a hardship. The nature of the hardship must be explained. A copy of the written request must be

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1   served on all other parties. Any objection to the request must be submitted within forty-eight (48)

2   hours of receipt. Both the request and objection may be submitted in letter form either by mail or

3   facsimile to 408/535-5354. If telephone attendance is allowed, the party must be available

4   throughout the entire conference.

5   No later than seven (7) calendar days before the Settlement Conference, each party shall

6   submit a Settlement Conference Statement to Magistrate Judge Seeborg <u>in camera</u>. The original

7   Settlement Conference Statement (no copies are necessary) shall be placed in a sealed envelope,

8   clearly marked "Confidential: Settlement Conference Statement; Attn: Clerk for Magistrate Judge

9   Seeborg," and lodged with the Clerk's office, Room 2112 on the second floor of the United States

10 Courthouse, 280 South First Street, San Jose, California. The clerk will forward the Settlement

11 Conference Statement to Magistrate Judge Seeborg's chambers. The Settlement Conference

12 Statement shall not be filed with the Court nor are the parties required to serve the Statement upon

13 the other parties or their counsel.

14   The form and content of the Settlement Conference Statement may vary depending upon the

15 nature of the case, the stage of the proceedings or timing of the conference, and economic

16 considerations. Generally, the Settlement Conference Statement should include the following

17 information:

18   1. <u>Statement of Facts</u>. A brief description of the substance of the claims and defenses

19 presented.

20   2. <u>Summary of Proceedings</u>. A brief list of the motions previously made, the dispositions

21 thereof, and any motions pending resolution.

22   3. <u>Undisputed Matters</u>. A plain and concise statement of all material facts not reasonably

23 disputable.

24   4. <u>Issues of Fact</u>. A plain and concise statement of the major factual issues in dispute.

25   5. <u>Issues of Law</u>. A brief statement of the disputed points of law with respect to liability and

26 damages with reference to statutes and decisions relied upon. Extended legal argument is not

27 necessary. Reference may be made to memoranda and points and authorities previously filed.

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1   6. <u>Relief Sought</u>. A statement of the relief claimed, including a particularized itemization of

2 all elements of damages.

3   7. <u>Prior Settlement Discussions</u>. A summary of prior settlement activity between the parties,

4 including settlement offers and responses thereto.

5   8. <u>Litigation Costs</u>. A brief statement of the approximate litigation costs to date and the

6 estimated cost and time projected for further discovery, pretrial proceedings and trial.

7   9. <u>Settlement Analysis</u>. A brief and forthright evaluation of the strengths and weaknesses of

8 your case and the probabilities of prevailing on the major issues in dispute.

9   10. <u>Discrete Issues</u>. Are there any discrete issues affecting the parties which, if resolved,

10 would aid in the disposition of the case.

11   11. <u>Current Settlement Position</u>. Set forth a reasonable proposal of settlement.

12   Parties are encouraged to participate and frankly discuss their case. Statements they make

13 during the conference will not be admissible at trial to prove or disprove liability in the event the

14 case does not settle. The parties should be prepared to discuss such items as their settlement

15 objectives, any impediments to settlement that they perceive, whether they have enough information

16 to discuss settlement and, if not, what additional information is needed and the possibility of a

17 creative resolution of the dispute.

18   Any request to continue the Settlement Conference shall be submitted in writing as soon as

19 possible after consultation with the opposing party. Submission by facsimile is acceptable at

20 facsimile number 408/535-5354.

21   The parties shall notify Magistrate Judge Seeborg's Chambers **immediately** at 408/535-5357

22 if this case settles prior to the date set for Settlement Conference.

23   IT IS SO ORDERED.

24 Dated: April 7, 2006

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26   RICHARD SEEBORG
          United States Magistrate Judge

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1 **THIS IS TO CERTIFY THAT NOTICE OF THIS ORDER WAS ELECTRONICALLY PROVIDED TO**

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3 Ann MacFarland Draper, Esq.
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5 Richard M. Johnson, Esq.
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7 Damien P. Lillis
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9 Counsel are responsible for distributing copies of this document to co-counsel who have not
registered for e-filing under the court's CM/ECF program.

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11 Dated: April 7, 2006

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13   CHAMBERS OF MAGISTRATE JUDGE RICHARD SEEBORG

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15   By: /s/ *BAK*

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